

AMENDED IN SENATE JUNE 3, 2003  
AMENDED IN SENATE MAY 13, 2003  
AMENDED IN SENATE APRIL 28, 2003

**SENATE BILL**

**No. 749**

**Introduced by Senator Escutia  
(Coauthors: Senators Soto and Speier)**

February 21, 2003

An act to add Chapter 31 (commencing with Section 22942) to Division 8 of the Business and Professions Code, relating to hospital group purchasing organizations.

LEGISLATIVE COUNSEL'S DIGEST

SB 749, as amended, Escutia. Hospital: group purchasing organizations.

Existing law does not regulate group purchasing organizations purchasing medical supplies used by hospitals.

This bill would require a hospital group purchasing organization doing business in this state to adhere to and implement certain code of conduct principles.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) Hospital spending in California is taking on a new
- 4 importance, especially with rising hospital costs and inability of



1 hospitals to afford the nurses and other medical personnel they  
2 need.

3 (b) Most health care costs are paid indirectly by taxpayers  
4 through programs like Medi-Cal and by private insurers.

5 (c) Many hospitals purchase medical supplies through group  
6 purchasing organizations (GPOs), which use the hospitals'  
7 collective purchasing power to obtain the best prices for those  
8 supplies.

9 (d) Reform is necessary to ensure that group purchasing  
10 organizations meet their own ethical standards and promote, rather  
11 than hinder, innovation in the medical device field.

12 SEC. 2. Chapter 31 (commencing with Section 22942) is  
13 added to Division 8 of the Business and Professions Code, to read:

14  
15 CHAPTER 31. HOSPITAL GROUP PURCHASING ORGANIZATIONS

16  
17 22942. For the purposes of this chapter, the following terms  
18 have the following meanings:

19 (a) "Group purchasing organization" is an entity that as all or  
20 part of its business is authorized by member health care service  
21 providers to enter into contracts to purchase medical supplies from  
22 vendors as the agent of the members.

23 (b) "Bundling" is the practice of packaging items into a single  
24 contract and requiring a member to buy the entire package in order  
25 to obtain the lowest price for the entire package.

26 (c) "Clinical preference products or services" means those  
27 clinical products or services that require substantial training to  
28 learn to use and that have a demonstrable effect on patient care  
29 outcomes. "Clinical preference products or services" includes  
30 products or services for which a provider has a particular  
31 preference based on factors such as the provider's training and  
32 experience, the performance or utility of those products or services  
33 in a clinical setting, and patient clinical outcomes.

34 (d) "Clinical products or services" means products or services  
35 used by providers directly in the provision of health care services  
36 to patients.

37 (e) "Corporate interest" means equity or debt securities,  
38 options, debt instruments including loans, or rights to acquire any  
39 of these.



1 (f) “Member” means a provider of health care services that  
2 contracts with a group purchasing organization to purchase goods  
3 or services from vendors.

4 (g) “Nominal value” means any item, service, or other thing  
5 of value, but not including cash or cash equivalents, that does not  
6 exceed fifty dollars (\$50) per instance or one hundred dollars  
7 (\$100) in a calendar year. Any item, service, or other thing of value  
8 of ten dollars (\$10) or less shall not be counted toward the  
9 one-hundred-dollar (\$100) annual limit.

10 (h) “Vendor” means a manufacturer, distributor, supplier, or  
11 other entity that sells goods or services to members pursuant to a  
12 contract with a group purchasing organization.

13 22942.1. Each group purchasing organization doing business  
14 in this state shall adhere to and implement the following code of  
15 conduct principles:

16 (a) Management employees, other employees who are in a  
17 position to influence contracting decisions by the group  
18 purchasing organization, and nonemployee officers, directors, and  
19 advisory board members may not accept any gifts, entertainment,  
20 favors, honoraria, or personal services payments from any vendor  
21 with whom the group purchasing organization contracts. This  
22 subdivision shall not apply to items or amounts of nominal value.

23 (b) A group purchasing organization or any of its employees,  
24 officers, directors, and advisory board members described in  
25 subdivision (a) may not have any corporate equity interest in any  
26 of its vendors unless that interest is fully disclosed to the members  
27 of the group purchasing organization.

28 (c) A group purchasing organization that has a corporate  
29 interest in a vendor may not impose any obligation, commitment,  
30 or other requirements or restrictions that in any way obligate a  
31 member to purchase goods or services from that vendor.

32 ~~(d) A group purchasing organization may not engage in~~  
33 ~~bundling of clinical preference goods or services.~~

34 ~~(e) A group purchasing organization may not extract fees or~~  
35 ~~any remuneration from any vendor in excess of 3 percent of total~~  
36 ~~purchases from the vendor.~~

37 ~~(f)~~

38 (d) A group purchasing organization shall disclose to its  
39 members the payments it receives from vendors with respect to  
40 purchases made by or on behalf of the members. The disclosure

1 shall distinguish between payments that are related to actual  
2 purchases as well as payments that are not allocable to actual  
3 purchases. A group purchasing organization shall provide a  
4 member an annual statement of all vendor payments received for  
5 those purchases.

6 ~~(g)~~

7 (e) A group purchasing organization may not ~~require~~ *do any of*  
8 *the following:*

9 (1) *Engage in bundling of clinical preference goods or services.*

10 (2) *Extract fees or any remuneration from any vendor in excess*  
11 *of 3 percent of total purchases from the vendor.*

12 (3) *Require its members to purchase goods or services from any*  
13 *single vendor, or to purchase from any single vendor in excess of*  
14 *90 percent of its total purchases.*

15 (f) *Notwithstanding subdivision (e), a member of a group*  
16 *purchasing organization that engages in any of the restricted*  
17 *activities described in subdivision (e) may enter into a contract for*  
18 *goods or services negotiated by the group purchasing organization*  
19 *if the member determines that contract to be cost-effective and in*  
20 *the best interest of the member.*

